

Exhibit K

In The Matter Of:

*Barbara E. Varner v.
Commonwealth of Pennsylvania, et al.*

*Kerry Houser
March 3, 2003*

*Filius & McLucas Reporting Service, Inc.
1427 East Market Street, York, PA
4309 Linglestown Road, Harrisburg, PA*

(717) 845-6418 or (717) 236-0623

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Word Index included with this Min-U-Script®

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[1] Q: Aside from Gary. One instruction I forgot to give you.
[2] If you answer a question and then realize later on that
[3] you have something to add, or you want to change your
[4] answer, stop me, let me know. I'll be happy to let you
[5] do that. So if you think of any other names, just hold
[6] up your hand or tell me you want to let me know some
[7] more information, okay?
[8] Now, you said that at first your relationship with
[9] Ms. Varner was strained because Gary wasn't speaking to
[10] you. Is that correct?
[11] A: Um-hum. Yes.
[12] Q: Why was Gary not speaking to you, do you know?
[13] A: Oh, a variety of reasons.
[14] Q: Let me ask you this first. What time frame are we
[15] talking about, what year, if you know?
[16] A: I would say '89, '90. Was it just in and around this
[17] time, or was it any other time that he stopped talking
[18] to me?
[19] Q: For the period — did he ever start talking to you
[20] again?
[21] A: No. Only for work-related reasons.
[22] Q: Okay. In 1989 were you working for Gary?
[23] A: Not exactly. Our office structure was, like, much
[24] different then. So if Joe was my supervisor on my — I
[25] had a small juvenile caseload at the time. Joe was my

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[1] supervisor for my juvenile cases. And in Joe's
[2] absence, Gary was next in line, if that makes sense to
[3] you.
[4] Q: Sure. How much interaction, how much daily interaction
[5] did you have with Gary back in 1989?
[6] A: The juveniles went on different cycles, but it wouldn't
[7] be daily. I would say maybe at most, weekly, maybe.
[8] Q: Okay. How many times, just once a week or —
[9] A: That I needed, like, supervision, like an authorization
[10] for detention or review?
[11] Q: Or that you saw him, that you passed one another.
[12] A: I saw him every.
[13] Q: Every day?
[14] A: Uh-huh. His office was right behind mine.
[15] Q: Okay. And how often did you need supervision from him?
[16] A: Depending on Joe's schedule and depending on my
[17] caseload, at most probably once a week. I remember one
[18] particular case that, I think it was in the summer and
[19] Joe was out and I worked with Gary on, but — more than
[20] once a week, but there were no problems with that.
[21] Q: At any point in time did Gary cease being in your
[22] supervisory chain? And by that what I mean is did
[23] there ever come a point in time where he was no longer
[24] your supervisor as you just described?
[25] A: Yes.

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[1] Q: Or in any sort of supervisory position over you?
[2] A: Right.
[3] Q: When was that?
[4] A: That would have been in, I think it was 1996, when our
[5] office split to distinctly all adult and all juvenile.
[6] And I was on the Adult side.
[7] Q: So as of 1996, do you remember what month in 1996?
[8] A: I'm going to guess June. Somewhere in the late spring
[9] or early summer of 1996.
[10] Q: So as of late spring, early summer 1996, Gary had no
[11] supervisory authority over you; is that correct?
[12] A: I believe that's correct, if I have my dates correct.
[13] Q: Okay.
[14] A: Whenever the split became official, Gary was on the
[15] Juvenile side and I was on the Adult side.
[16] Q: Okay. So as I understand it, from 1989 to 1996, in
[17] your opinion, he stopped talking to you; is that
[18] correct?
[19] A: Unless there was something we had to talk about work.
[20] Q: So something job — aside from anything job related?
[21] A: Right.
[22] Q: He stopped talking to you?
[23] A: Right.
[24] Q: Okay. And you started to tell me the reasons you
[25] thought he stopped talking to you. Please go ahead

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[1] with that.
[2] A: The first rift that I remember is about the DUI school
[3] money. We — the DUI school money is a big extra
[4] income, and at the time there was only a real select
[5] few who taught the class. We had gotten a memo that if
[6] I have a client, say, Joe, who is paying regularly on
[7] restitution of a prior offense, like a burglary, if a
[8] victim is getting regular money, that that, those
[9] payments are to cease until the DUI instructors get
[10] their hundred dollars before the victims. And I'm,
[11] like, we're going to pay a hundred dollars to our own
[12] people before victims get the money?
[13] So, Ken, I don't know, you haven't heard anything
[14] about Ken, but he kind of wasn't real big on making
[15] decisions; everything went to the judge. So he went up
[16] and talked to Judge Sheely. And Judge Sheely was,
[17] like, yeah, I can kind see that wouldn't look too good,
[18] let's change it that — and then the guys who taught
[19] DUI went up and talked to Judge Sheely and Judge Sheely
[20] reversed his decision again.
[21] So to my knowledge, I think the DUI instructors
[22] get paid before anybody else. But that was the first
[23] rift, because he thought I was trying to take his DUI
[24] money.
[25] And then there were just a variety of — I mean,

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[1] once you've done one thing to Gary you're pretty much
[2] done, anyway.
[3] Q: Did he tell you that the DUI issue was a reason that he
[4] didn't want to talk to you?
[5] A: I don't remember if he — what he said about it,
[6] anything specific what he said about it.
[7] Q: Okay. What other reasons do you think that he stopped
[8] talking to you?
[9] A: Because he didn't approve of the Complaint that I filed
[10] against Joe.
[11] Q: Did he ever tell you that, that he didn't approve of
[12] that Complaint?
[13] A: No. I heard him tell other people that. I overheard
[14] him telling an intern in our office.
[15] Q: What was the name of the intern?
[16] A: Lynn, it's either Dickerson or Dickinson, I forget what
[17] it was.
[18] Q: And what did you hear Gary say?
[19] A: That it was false and that I shouldn't have done that,
[20] and just how wrong it was for me to have done that.
[21] Q: Anything else you heard him say to Lynn?
[22] A: No. I mean, I don't specifically remember anything
[23] else.
[24] Q: Do you remember when that statement was made?
[25] A: I remember it was up on the fourth floor of the

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[1] courthouse but I don't remember when it was. Sometime
[2] after 1993 and — whenever she was an intern. I don't
[3] know who would have those records. Whenever she was an
[4] intern with our office.
[5] Q: How long was she an intern with your office, do you
[6] remember?
[7] A: I think it was just a summer. I don't — well, she
[8] might have stayed — it was a summer and possibly she
[9] came in the next fall semester, less than a year, so.
[10] Q: Did you ever hear Gary make that statement to anybody
[11] else?
[12] A: I don't recall anybody specific that he said would have
[13] said that.
[14] Q: And do you remember being told by anybody that they
[15] heard Gary say that?
[16] A: I don't recall that, no.
[17] Q: Did you say anything to Gary when you heard that?
[18] A: No.
[19] Q: Did you tell anybody that he had made that statement?
[20] A: Probably.
[21] Q: Do you remember who?
[22] A: I don't remember who. I don't remember who even worked
[23] there at the time, everyone specifically.
[24] Q: Did you tell any of your supervisors that he made that
[25] statement?

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[1] A: Well, at the time he was, I mean, it was — who would I
[2] have told? Joe? Or Gary?
[3] Q: Well, Joe was your immediate supervisor, correct?
[4] A: Right.
[5] Q: And you didn't tell Joe?
[6] A: No. He was my supervisor, he was one of my
[7] supervisors, but I wasn't going to rehash the issue
[8] with him. It was difficult the first time, so.
[9] Q: Who were your other supervisors at the time?
[10] A: John Roller was the Adult supervisor at the time, and
[11] then the comparable position to Gary on the Adult side
[12] was Dave Meyers.
[13] Q: Okay. And you didn't tell John or Dave about the
[14] statement?
[15] A: No.
[16] Q: Any other reasons you thought Gary had stopped talking
[17] to you?
[18] A: He didn't like me. I mean, once — I mean, Gary didn't
[19] talk to a lot of people in the office unless he had to.
[20] Q: Do you happen to know anybody else that he stopped
[21] talking to?
[22] A: Well, at different times he wasn't talking to Tom
[23] Boyer, Paul Meuron, Mike Dunsmore. I mean, just a
[24] variety of people. Greg Miller, Lyle Herr.
[25] Q: So he would get upset at people and just stop talking

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[1] to them; is that your perception?
[2] A: They would be punished.
[3] Q: Any other reasons you can think of now that Gary
[4] stopped talking to you?
[5] A: Nothing specific, no.
[6] Q: Anything else you can recall telling Deb Wallet
[7] regarding the reasons that Gary stopped talking to you?
[8] A: No.
[9] Q: You also mentioned that you told Deb about your
[10] involvement with Gary and Joe? That's what I have
[11] written down.
[12] A: Just work involvement. Maybe I should have said
[13] history, I guess, work or involvement.
[14] Q: Can you tell me what you told Deb?
[15] A: I've told you everything.
[16] Q: Okay.
[17] A: Oh, about Joe, too? Or just Gary?
[18] Q: Gary and Joe. Everything that you told Deb is what I'm
[19] looking for.
[20] A: I told her — the Complaint was a big one.
[21] Q: The 1993 Complaint you're talking about?
[22] A: Right. Oh, I discussed when we went to trainings at
[23] Penn State, at the time we went to some trainings in
[24] State College there were one instance that the — it
[25] was me, another probation officer who doesn't work

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[1] Q: Why not?
[2] A: Well, like I said, I was 25 at the time and I just
[3] didn't know who you would go to. And after I got home
[4] I thought, well, that was dumb, I should have seen what
[5] was orchestrated there to start with.
[6] Q: Did you include in your 1993 Complaint mention of this
[7] incident?
[8] A: No.
[9] Q: Has Joe ever again attempted to kiss you since that
[10] time?
[11] A: No.
[12] Q: Anything else you can recall telling Deb Wallet in your
[13] conversation approximately three weeks ago?
[14] A: I don't know if I told her this or not. The only other
[15] thing I would have possibly told her was, again, in a
[16] training, we were sitting — there was a table in
[17] the — we always tried to sit in the back. Joe was
[18] sitting next to me. I was in the middle, and I think
[19] it was Deb Graef on this side. And Gary was at the
[20] table in front of us. And Joe passed Gary a note that
[21] said Kerry's single room such and such, Joe's single
[22] room such and such. And that was the first overnight
[23] training I was at, and I was a little bit concerned.
[24] Q: Do you remember when this was, what year?
[25] A: I started in '88, so I don't know. Sometime after

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[1] that.
[2] Q: Would it have been before 1990?
[3] A: Yeah, I would guess.
[4] Q: Okay. And what did that note mean to you? Why did it
[5] concern you?
[6] A: Because I was concerned he thought something physically
[7] sexually was going to happen between us.
[8] Q: Did the note say anything other than what you just
[9] described?
[10] A: No.
[11] Q: Had Joe said anything to you prior to that note —
[12] A: No.
[13] Q: — to lead you to believe that he had any sexual
[14] interest in you?
[15] A: No.
[16] Q: Do you recall if Gary Graham responded in any fashion
[17] to that note either to Joe or to you?
[18] A: Not to me. They didn't even know that I had seen it.
[19] Q: Okay. Do you have any awareness of what Gary's
[20] reaction to that note was?
[21] A: No, I didn't — I saw it laying on the — after Gary
[22] handed it back, I didn't see what he said to Joe.
[23] Q: Did you tell anybody you worked with about that note at
[24] the time?
[25] A: I might have said something to Deb Graef, who was —

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[1] who I shared a room with, who was with — she would
[2] have been the only person I would have told.
[3] Q: Was Deb one of your supervisors or was she a co-worker?
[4] A: She was a co-worker.
[5] Q: Did you include mention of that note in your 1993
[6] Complaint?
[7] A: No.
[8] Q: Anything else you told Deb Wallet?
[9] A: That's all I can come up with.
[10] Q: Okay. Prior to speaking with Deb out in the hallway
[11] right before this deposition, had you spoken with her
[12] today?
[13] A: No. I mean, we just spoke in the hallway of not about
[14] this, just I was talking to Barb about stuff, but we
[15] weren't discussing this case.
[16] Q: Okay. Other than today, have you spoken with Barbara
[17] Varner about her Complaint in this matter?
[18] A: Um-hum.
[19] Q: You have to say yes or no.
[20] A: Yes. I'm sorry.
[21] Q: It's easy to forget.
[22] When did you first speak with her about her
[23] Complaint?
[24] A: It would have been sometime after 1996, because our
[25] office had been split at the time and I didn't really

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[1] see her very often anymore. And I had heard from some
[2] of the secretaries or the women who were on that side
[3] that Gary was yelling at Barb about a bunch of stuff,
[4] and that these other women were, like, half afraid
[5] of — because of his yelling.
[6] And then one time I saw Barb in the bathroom and
[7] she said that things were real bad, that he was yelling
[8] at her all the time and she didn't know what to do.
[9] And then the only other time I remember, I
[10] remember a group of women went to Hoss's at Christmas
[11] time just for, like, a little lunch before the
[12] holidays, and the secretaries were saying stuff to Barb
[13] about how can you take that, he yells at you all the
[14] time.
[15] And then at some point I remember Barb telling me
[16] she went to the EEO — or went to different, whoever
[17] you go to, to file the Complaint.
[18] Q: Did you ever hear Gary yell at Barb?
[19] A: No.
[20] Q: Did Barb tell you what Gary was yelling at her about?
[21] A: Probably, but I don't remember specifically what it
[22] was, what she had told me.
[23] Q: Okay. And I'm talking about just at this time —
[24] A: Right.
[25] Q: — when this first happened. Okay.

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[1] A: When I shared an office with Barb he went out of his
[2] way to be nice to her.

[3] Q: Who went out of his way to be nice?

[4] A: Gary.

[5] Q: To be nice to her?

[6] A: Um-hum. I mean, I thought, I mean, whatever Gary did,
[7] Barb had to be with him.

[8] Q: What do you mean by that?

[9] A: He just looked for reasons to have Barb with him. I
[10] mean, we all kind of joked — Barb worked at Children
[11] and Youth before she was hired, and it was just an
[12] unspoken rule that Barb would get hired because Gary
[13] liked her.

[14] Q: And what time frame are we talking about right now?

[15] A: I'd say — I started in '88. I don't remember when she
[16] started, in Children and Youth. It was before or
[17] after, between then and whenever she was hired, while
[18] she was working at Children and Youth then before she
[19] got hired in Probation.

[20] Q: So you didn't see Gary ever yell at Barb?

[21] A: No.

[22] Q: Did you ever see him act in way that you thought was
[23] demeaning toward her?

[24] A: Huh-uh. No.

[25] Q: Did you ever see him act in a way that you thought was

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[1] unkind toward her?

[2] A: No.

[3] Q: Did you ever see him act in a way that you thought was
[4] physically threatening toward her?

[5] A: No.

[6] Q: Did Barb ever complain to you about Gary's behavior?

[7] A: Only after the split.

[8] Q: Only after the split. Prior to the split, did she have
[9] any comments about Gary's behavior toward her, good,
[10] bad or otherwise?

[11] A: The only thing I remember her saying was I remember a
[12] story where she and he went to a juvenile facility for
[13] a graduation, I think it was South Mountain, I don't
[14] know where it was, but Gary was complaining about her
[15] car the whole time, that it was this, that and the
[16] other thing. I just remember her telling a story like
[17] that.

[18] Q: Do you remember what types of complaints about the car?

[19] A: He didn't like the car. Just a — I forget
[20] specifically, but the car, the roof — it was a
[21] convertible. I mean, he just had a bunch of complaints
[22] about the car.

[23] Q: Did she ever tell you, did Barb ever tell you that Gary
[24] made inappropriate comments to her when they were
[25] riding around together?

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[1] A: No.

[2] Q: Getting back to my original question, prior to this
[3] deposition did you speak with Barb Varner about this
[4] deposition?

[5] A: Yes.

[6] Q: And when was that?

[7] A: After the times I've told you about?

[8] Q: Yes, after the times you've told me about.

[9] A: I mean, I don't remember specific dates, but —

[10] Q: What was the most recent conversation you had with her
[11] about this case prior to today?

[12] A: Prior to today? Would have been last week when I told
[13] her that I was subpoenaed to come here.

[14] Q: And how long did you talk to her last week?

[15] A: About that?

[16] Q: About that.

[17] A: About me being here? Not a whole lot. But I mean,
[18] she, I talked to her — I guess I got the subpoena on a
[19] Monday. I don't think I saw her again till Wednesday.
[20] I think she was out on Tuesday. But after I got the
[21] subpoena I told her about it, and I think there was,
[22] like, two days lapse before I saw her again. And then
[23] she told me that she had been somewhere where Judge
[24] Sheely had been deposed, but —

[25] Q: Did she tell you what Judge Sheely said during his

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[1] deposition?

[2] A: She said that he didn't recall a lot of information.

[3] Q: Did she tell you anything that he did recall?

[4] A: Oh, that he, something about how it had transpired.
[5] And I don't recall specifically what was said, about if

[6] Gary told his wife Barb about their alleged
[7] relationship in front of Judge Sheely or at home the
[8] night before. I think that's what it was.

[9] Q: Did she tell you about any of the attorneys who were in
[10] attendance at that deposition?

[11] A: Oh, I mean, she told me that Joe has an attorney, Gary
[12] has an attorney, the county has an attorney. But I
[13] don't know, I'm assuming that's Joe's attorney next to
[14] him but I don't know who any of them are.

[15] Q: Did she tell you what any of the questions were, the
[16] specific questions that were asked?

[17] A: No.

[18] Q: Did she tell you about Gary's deposition at all, at any
[19] point in time?

[20] A: Yeah.

[21] Q: When did she do that?

[22] A: I don't remember when it was, but — when Gary's
[23] deposition was, but it was a couple days after that.

[24] Q: And what did she tell you about Gary's deposition?

[25] A: That he didn't — that he didn't recall a lot of stuff.

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[1] I would guess, I don't recall specifically but
[2] when I first started there I'm going to guess that I
[3] had been to lunch with, like, a group, him and some
[4] other people. Oh, and that time, the Christmas thing.
[5] You know, there were times, I don't recall all of
[6] them or how many.
[7] Q: Okay. And did you ever complain formally or informally
[8] to any of your supervisors about Gary?
[9] A: No.
[10] Q: Did you ever have any, aside from your belief that he
[11] doesn't talk to you, ever have any professional
[12] problems with him?
[13] A: No.
[14] Q: Ever have any personal problems with him, aside from
[15] him not talking to you?
[16] A: What do you mean personal problems?
[17] Q: Any problems we haven't talked about.
[18] A: No.
[19] MS. BLANCHARD: Off the record.
[20] (Discussion held off the record.)
[21] BY MR. ADAMS:
[22] Q: Good morning, Ms. Houser. My name is Paul Lancaster
[23] Adams, and as you guessed earlier, I do represent
[24] Mr. Osenkowski in this matter.
[25] I'll ask you that you please follow the same rules

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[1] that Ms. Blanchard explained to you before, and that I
[2] expect the questions, if she did not say that to you, I
[3] want to add to that any question that I ask you and you
[4] actually respond to, I'm going to assume that it is the
[5] correct answer to the best of your ability.
[6] A: Yes.
[7] Q: I don't want you to guess. Just answer what you know,
[8] and I don't want to you speculate. Is that okay?
[9] A: Okay.
[10] Q: Okay. Some of these questions are going to be kind of
[11] weird for you, and I apologize.
[12] You didn't like Mr. Osenkowski?
[13] A: At this point I'd probably say no.
[14] Q: Would you say that you hate Mr. Osenkowski?
[15] A: No.
[16] Q: Do you like Gary Graham?
[17] A: At this point, no.
[18] Q: Do you like Ms. Varner?
[19] A: Yes.
[20] Q: Referring to your 1993 incident involving, or the
[21] allegation involving Mr. Osenkowski, he wasn't chief of
[22] the Juvenile Probation Department at that time, was he?
[23] A: No. He was the Juvenile supervisor.
[24] Q: Was he your supervisor?
[25] A: Yes, for my juvenile cases.

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[1] Q: Okay. And I think Ken Bolze, is he the one that
[2] actually conducted an investigation based on —
[3] A: Yes.
[4] Q: I'm sorry. Wait until I finish the question. Was Ken
[5] Bolze the person who actually conducted an
[6] investigation based on your complaint of
[7] Mr. Osenkowski?
[8] A: Yes.
[9] Q: Okay. And he actually interviewed persons in your
[10] office about your complaints; is that correct? Ken
[11] Bolze.
[12] A: I believe the people who had heard what had been said.
[13] Q: Do you have a reason to believe that Mr. Bolze didn't
[14] interview persons in your office about your allegation?
[15] A: No. I don't recall specifically when he did that or
[16] what he would have asked.
[17] Q: Okay. He interviewed you; is that correct?
[18] A: Yes.
[19] Q: And do you have any reason to believe that Mr. Bolze's
[20] investigation of your complaints against Mr. Osenkowski
[21] was not a comprehensive one? Do you have any reason to
[22] believe that it was not comprehensive?
[23] A: No.
[24] Q: Okay. And he supplied you, again, Mr. Bolze supplied
[25] you with his conclusions of the investigation; is that

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[1] correct?
[2] A: Yes.
[3] Q: Referring to 1993 complaint of Mr. Osenkowski, did you
[4] ever ask Debra Wallet to consider taking your case?
[5] A: I'm sorry, could you say that again?
[6] Q: Did you ever ask Debra Wallet to consider taking your
[7] case, a legal case against Mr. Osenkowski?
[8] A: I talked to her about that, on what I should do.
[9] Q: Did you ask her to consider your case?
[10] A: I think I just asked for her opinion, and I didn't
[11] pursue it outside of the office after that.
[12] Q: Okay. Did you talk to Ms. Wallet before or after
[13] Mr. Bolze's investigation and conclusion?
[14] A: Before the conclusion.
[15] Q: Okay. Did you ever consider talking to any other
[16] attorneys about your complaints against Osenkowski from
[17] 1993?
[18] A: No. Well, that probably isn't totally correct, because
[19] at the time my ex-husband was an attorney, so I mean,
[20] if you want to consider that.
[21] Q: What's your ex-husband's name?
[22] A: Chuck Vohs.
[23] Q: Did he specialize in employment law?
[24] A: No, he did not.
[25] Q: But he considered taking your case at some point?

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[1] A: I didn't see that that — that that had possibly been
[2] planned before we all had got there.
[3] Q: Okay. So why do you think that you were dumb by not
[4] staying at Mr. Osenkowski's home?
[5] A: I think I was dumb for staying there.
[6] Q: You think you were dumb for staying there?
[7] A: Right. For going in in the first place.
[8] Q: Okay. Is that different from your testimony this
[9] morning?
[10] A: I don't think that it is. I mean, that's what I meant.
[11] Q: Okay.
[12] A: That's why I said I didn't — another reason I didn't
[13] file a complaint, because I just felt like I had been
[14] set up and I should have seen it and never should have
[15] allowed myself to be in that situation to begin with.
[16] Q: That's what you meant?
[17] A: Right.
[18] Q: Okay. Very good. Are you vicariously living through
[19] Ms. Varner with respect to her complaint of
[20] Mr. Osenkowski?
[21] A: No. I don't have to see Joe or — I don't have any
[22] contact with Joe since 1996.
[23] Q: You know that there's a complaint by Ms. Varner against
[24] Mr. Osenkowski, correct?
[25] A: Well, I knew it originated with Joe — I mean, with

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[1] Gary, and somehow because Joe's his supervisor that
[2] he's involved with it, too.
[3] Q: Okay. So you do know there's a complaint against
[4] Mr. Osenkowski —
[5] A: Right.
[6] Q: — by Ms. Varner?
[7] A: Yes.
[8] Q: And honestly, would you like to see Ms. Varner prevail
[9] over Mr. Osenkowski in some sort of way via this
[10] lawsuit?
[11] A: It's been going on for so long, I guess I just would
[12] like to see it end or resolve one way or the other,
[13] whatever that outcome happens to be.
[14] Q: Would you like to see Ms. Varner somehow triumph over
[15] Mr. Graham via this lawsuit?
[16] A: What do you mean triumph?
[17] Q: Win the lawsuit against Mr. Graham.
[18] A: What does it mean to win? I mean, what do you consider
[19] a win?
[20] Q: Well, you can't ask the questions, I have to ask the
[21] questions. Whatever you interpret as winning versus
[22] losing in a lawsuit. I'd like to know what you think.
[23] A: Well, I've never been involved with anything like this
[24] before, so I don't know what the outcomes could be. I
[25] just — I mean, I've worked for the court system my

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[1] whole professional life. I just leave — I'm used to
[2] just leaving outcomes to the Court. I don't know what
[3] is going to happen.
[4] Q: Okay. Without taking too much time, you realize that
[5] there are two types of litigation, criminal and civil
[6] litigation; is that correct? Is that correct?
[7] A: Correct.
[8] Q: Okay. And you realize that this is a civil proceeding?
[9] A: Well —
[10] Q: Because it's not a criminal proceeding?
[11] A: I don't know anything about civil law other than I've
[12] been divorced.
[13] Q: Okay. Do you realize that the remedies or part of the
[14] remedies of a civil lawsuit is monetary gain?
[15] A: From watching TV, sure, I know that it's monetary gain.
[16] Q: So with that understanding, would you feel happy for
[17] Ms. Varner if she were to monetarily gain from her
[18] lawsuit against Mr. Graham and Mr. Osenkowski?
[19] A: Sure. If that's what you guys felt happened, sure.
[20] Q: Based on what you feel happened, would you like to see
[21] her monetarily gain?
[22] A: I mean, all I can tell you is my involvement with Joe
[23] and Gary. I didn't see anything that happened with
[24] Gary and Barb or Joe and Barb, so I mean, I can't
[25] answer that question.

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[1] Q: Okay. What joke did you tell during a Christmas party
[2] that you had mentioned earlier this morning?
[3] A: That was before I worked in Probation, and I'm trying
[4] to remember after Barb told me about it. It was
[5] something about Santa Claus and — I don't remember all
[6] the things leading up to, but the brunt, the joke of
[7] the thing was Santa Claus saying, part of the joke was
[8] ho ho ho, gotta go gotta go, and at the end the joke
[9] was hey hey hey, gotta stay, gotta stay, can't get up
[10] the chimney with my penis this way is what the end was.
[11] Q: Okay.
[12] A: I don't remember the things — it was something with
[13] Santa and different women or kids and then finally a
[14] woman at the end.
[15] Q: This is a joke you told during a Christmas party?
[16] A: Right.
[17] Q: Do you recall a time when Ms. Varner and Gary Graham
[18] ever got along or got along favorably?
[19] A: Yes.
[20] Q: What time period was that?
[21] A: The time period I shared an office with her, that I
[22] considered it favorably.
[23] Q: Okay. Do you recall a time when that interaction went
[24] sour or it was no longer favorable?
[25] A: Again, it was after the split when I didn't have much,

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[1] if any, contact with Barb. I heard about it from other
[2] people, and then at some point I heard about it from
[3] Barb.

[4] Q: Do you have any idea why their relationship, work or
[5] whatever, became sour or went unfavorably?

[6] A: I remember I was surprised, because I shared an office
[7] with her and, I mean, Barb could really do no wrong as
[8] far as Gary was concerned.

[9] Q: So you were surprised that they all of a sudden weren't
[10] getting along favorably?

[11] A: Right.

[12] Q: And so it was pretty abrupt, from your understanding?

[13] A: I think, yes.

[14] MR. ADAMS: Okay. I have no further questions.
[15] Thank you.

[16] BY MR. DELLASEGA:

[17] Q: You've had the sexual harassment training, then?

[18] A: Through the county, yes.

[19] Q: How many times?

[20] A: I would say two, maybe three times that the county's
[21] offered it. However many times the county has — it's
[22] always been, like, mandated training. So however many
[23] times we've had that. I'm going to guess three.

[24] Q: With the understanding you learned in those training
[25] sessions of what constitutes sexual harassment, let me

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[1] ask you, have you ever observed Mr. Graham sexually
[2] harass Barbara Varner?

[3] A: No.

[4] Q: Have you ever observed him sexually harass anybody?

[5] A: No.

[6] Q: Other than the Complaint you filed against
[7] Mr. Osenkowski regarding that particular epithet, have
[8] you ever observed Mr. Osenkowski sexually harass
[9] anybody?

[10] A: I would say I've heard, been in rooms with
[11] conversations with both of them that the conversations
[12] were disgusting enough that I felt like I couldn't wait
[13] to get out of there, in regard to conversations were
[14] about not me but about other women.

[15] Q: You say both of them, you're referring to Osenkowski
[16] and Graham?

[17] A: Yes. Right.

[18] Q: And —

[19] A: Joe more so than Gary.

[20] Q: All right. Give me an example of what Mr. Osenkowski
[21] would say that you felt rose to the level of sexual
[22] harassment.

[23] A: I know one instance, again, at a training where we were
[24] at a restaurant, I think it's called The Tavern, Joe
[25] had had a lot to drink and was talking very loudly

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[1] about how his daughters looked in underwear and about
[2] how Polish people had sex — or they wouldn't get
[3] pregnant because if — before you were married, it was,
[4] would have been a big deal.

[5] He also talked about his ex-wife having to use the
[6] bathroom on the way home from a trip from State
[7] College, she went to the bathroom outside and he said
[8] that she got an infection and he used the word pussy.

[9] Q: Is that the worst example you can think of of comments
[10] made by Mr. Osenkowski that you feel rise to the level
[11] of sexual harassment?

[12] A: I thought it was inappropriate conversation. I mean,
[13] I'm sure I could, if we sat here for a while I could
[14] think of some other ones.

[15] Q: Sitting here right now, to the best of your
[16] recollection, can you recall him saying anything worse
[17] than what you've just told us?

[18] A: No.

[19] Q: You had said early on in your testimony to
[20] Ms. Blanchard that when you first met Barbara Varner
[21] your relationship was a bit strained because Gary
[22] wasn't talking to you. Do you recall that?

[23] A: Right.

[24] Q: Okay. Why would the fact Gary was not talking to you
[25] make your relationship with Mrs. Varner strained?

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[1] A: Because if — you have to understand the dynamics of
[2] our office, because if she was talking to me, that
[3] would mean in Gary's eyes that she was going against
[4] Gary. I mean, you pretty much had to pick your allies
[5] in there. So I just kind of, knowing that I just
[6] stayed away from Barb, not to make her life difficult,
[7] and she followed suit.

[8] Q: You stayed away from Mrs. Varner because —

[9] A: I just didn't like to pursue, like, any ongoing — I
[10] didn't pursue a lot of contact with her because I knew
[11] she didn't want to because she and Gary were friends.

[12] Q: Let me ask you. Did you also avoid other people who
[13] Graham wasn't talking to? You ran down a list of five
[14] or six names that people you recalled he did not talk
[15] to. Did you avoid them so they wouldn't feel
[16] uncomfortable with their relationship with Graham?

[17] A: With people he wasn't talking to?

[18] Q: Right.

[19] A: Not the people he wasn't talking to. The people he was
[20] talking to, I did.

[21] Q: So was Ms. Varner like everybody else he was talking
[22] to, you would avoid all of them?

[23] A: There wasn't very much. There was just a couple of
[24] them.

[25] Q: That he would talk to?

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[1] A: Right.
[2] Q: Ms. Varner was one of them?
[3] A: Yes.
[4] Q: And you can only think of perhaps two more?
[5] A: Were there two more?
[6] Q: Yes.
[7] A: I'd say two — Joe. Usually Sam and Denny, they were
[8] about the only ones.
[9] Q: So Mrs. Varner was in a select group of people who he
[10] would talk to?
[11] A: Yes.
[12] Q: And the other female in that group that you've
[13] identified?
[14] A: Professional female, right.
[15] Q: And when you say that your relationship was strained,
[16] are you talking about when you first became office
[17] mates in '94? Or when Mrs. Varner first came, was it
[18] CYS?
[19] A: Not at CYS, but when we became office partners, I was a
[20] little nervous how it would go, just because I knew I
[21] didn't — Gary and I didn't get along and I knew she
[22] was good friends with Gary. But we got — Gary didn't
[23] come in our office if I was there and we didn't talk
[24] about Gary.
[25] Q: When you say good friends, they were both good friends

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[1] with each other?
[2] A: I perceived that, yes.
[3] Q: That was unusual?
[4] A: What, that —
[5] Q: For Graham to be good friends with anybody?
[6] A: I wouldn't say unusual. I mean, I had known he had
[7] liked her when she worked at Children and Youth, so I
[8] wasn't surprised by it.
[9] Q: What did you observe by when she worked at Children and
[10] Youth that made you think he liked her?
[11] A: That he would go out with her on a lot of cases. That
[12] they would talk more about cases than other probation
[13] officers and caseworkers would.
[14] Q: Anything else?
[15] A: He and Joe knew stuff about her personal life
[16] personally on the outside of work that I doubt they
[17] knew about many other caseworkers down there.
[18] Q: And from what you observed, Mrs. Varner liked Gary as
[19] well; is that correct?
[20] A: She was polite to him. I assume she liked him.
[21] Q: Did you observe a degree of friendship on Mr. Graham's
[22] part that was disproportionate to the degree of
[23] friendship Mrs. Varner displayed?
[24] A: Well, he was her supervisor so he would, like, initiate
[25] more of the contact. But that might have been just

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[1] based on his role with her. So I don't have any direct
[2] answer to give that, I mean, he might have seemed more
[3] friendly, but again, he was her supervisor and he would
[4] have to initiate some of the conversations.
[5] Q: In other words, when she worked at CYS he was not her
[6] supervisor; is that correct?
[7] A: Correct.
[8] Q: But you observed them being good friends when she was
[9] at CYS; is that correct?
[10] A: I remember him talking with her a lot. And I remember
[11] meeting her up in our office, and I think it was when
[12] she was up there to talk with Gary.
[13] Q: Would you again, though, characterize your observation
[14] of them while Mrs. Varner was at CYS as two people who
[15] were good friends?
[16] A: Friends, yeah. I think they became better friends when
[17] they — I thought they became better friends once she
[18] started in Probation.
[19] Q: Was there any advantage to having Mr. Graham like you?
[20] A: Yes.
[21] Q: And what was that?
[22] A: Your stress level. You wouldn't be on the punishment
[23] list. I mean, when Gary didn't like you, your life
[24] could be miserable.
[25] Q: Because?

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[1] A: Because he's mean, he's vengeful, and he was a
[2] supervisor. I mean, he had some role of authority over
[3] us.
[4] Q: Did you observe Mr. Graham raise his voice to people?
[5] A: Yes.
[6] Q: Yell at them?
[7] A: I heard him yell at other people, yes. Not to Barb.
[8] Q: Is he indiscriminate in yelling at both men and women?
[9] A: Yes.
[10] Q: Is he indiscriminate in being rude to both men and
[11] women he dislikes?
[12] A: Yes.
[13] Q: Is he indiscriminate in attempting or threatening to
[14] punish people he doesn't like?
[15] A: Yes.
[16] Q: He treats both men and women equally poorly? You would
[17] agree with that statement?
[18] A: Yeah, I would say. He might be a little — I would say
[19] with the women he — with some women he's not as
[20] overtly mean to.
[21] Q: Between '89 and Mrs. Varner's arrival, you never
[22] observed him to sexual harass another woman there; is
[23] that correct?
[24] A: No.
[25] Q: Did Mr. Graham ever acknowledge to you or did you ever

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- [1] hear from other persons in Probation Mr. Graham
[2] acknowledge an affair with any woman or relationship
[3] with any woman other than his wife?
[4] A: He talked about stuff that happened prior to his
[5] marriage.
[6] Q: But did he talk about any instance of infidelity that
[7] you ever heard of?
[8] A: No.
[9] Q: Even by rumor?
[10] A: No.
[11] Q: Did he to your knowledge appear sexually interested in
[12] any women other than his wife at any time prior to the
[13] split?
[14] A: I'm sorry, I didn't hear you.
[15] Q: Did he appear sexually interested in any woman at all
[16] other than his wife prior to the split?
[17] A: I mean, he talked about other women. I mean, he talked
[18] about other women. I don't know what his interest in
[19] them, outside of just men talking, what his interest
[20] was.
[21] Q: When you say he talked about other women, are you
[22] including Mrs. Varner in that group?
[23] A: I don't recall him talking about Mrs. Varner in any way
[24] to me.
[25] Q: He would evaluate other women in the context of how

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- [1] sexually attractive they were?
[2] A: I remember him one time saying about an intern had nice
[3] legs, that kind of stuff. But I never heard him say
[4] anything about Barb Varner.
[5] Q: Now, during the period of time that you shared the
[6] office with Mrs. Varner, am I correct in assuming
[7] Mrs. Varner never complained to you about Graham?
[8] A: No, just the one thing about I remember about the card,
[9] that she was kind of like laughing and complaining. I
[10] mean, that was just how Gary was. He was always, like,
[11] quick and hyper, and I mean, we joked about that.
[12] Q: Did Mrs. Graham ever acknowledge to you what you
[13] observed, that Gary tried to involve her in as many
[14] things as —
[15] MS. WALLET: Excuse me. You asked about
[16] Mrs. Graham. Did you mean that?
[17] MR. DELLASEGA: I meant Mrs. Varner.
[18] THE WITNESS: Okay, did Mrs. — no. She never
[19] talked to me. About what —
[20] BY MR. DELLASEGA:
[21] Q: Gary wanting her to go everywhere with him.
[22] A: She would just say "I have another trip with Gary," but
[23] she never, I mean, talked about it other than like a
[24] day-to-day routine sort of way.
[25] Q: Never complained about having to go anywhere with

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- [1] Graham; is that correct?
[2] A: No.
[3] Q: Mr. Graham cuss in the office?
[4] A: Yeah. Yes.
[5] Q: Is that a rarity in your office?
[6] A: No.
[7] Q: Was he typical of many others in that respect?
[8] A: Yes.
[9] Q: Within Probation would you describe for me your
[10] understanding as to how seniority affects your ability
[11] to be promoted?
[12] A: That has always, up until we're speaking, been how
[13] promotions have taken place.
[14] Q: Strictly based on seniority?
[15] A: Correct.
[16] Q: Without any other consideration?
[17] A: Correct.
[18] Q: Are you able to identify any junior person who was
[19] promoted over somebody with more seniority?
[20] A: Not since I've worked there. But then again, I mean,
[21] it hasn't happened since I've been there. And
[22] promotions just don't happen very often, just based on
[23] longevity. There aren't many positions to be promoted
[24] to.
[25] Q: Have you ever seen anywhere in writing that seniority

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- [1] plays a role in promotions?
[2] A: Played a role?
[3] Q: In being promoted.
[4] A: Just seniority lists come out periodically. And I
[5] mean, we just always have assumed, like, when Ken
[6] retired we would know who — we knew who would move up.
[7] I mean, it wasn't even an issue of interviewing or
[8] posting the job.
[9] Q: Other than your assumption, in other words, you've
[10] never seen any written document that says people will
[11] be promoted in order of seniority?
[12] A: No.
[13] Q: And other than your assumption, you've never been told
[14] orally by any supervisor, have you, that people are
[15] being promoted solely in order of seniority?
[16] A: No.
[17] Q: So you're basing your assumption on past practices?
[18] A: Correct.
[19] Q: Past experience, correct? And only on that?
[20] A: Correct.
[21] Q: To your knowledge does Mrs. Varner read Redbook
[22] magazine?
[23] A: I don't have any idea.
[24] Q: You never talked about it with her?
[25] A: I know she gave me a copy of an Oprah magazine once,

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[1] was said.
[2] Q: You told him about the reference to the cunt club?
[3] A: Right.
[4] Q: And what did you expect him to do as a result of your
[5] complaint?
[6] A: I don't remember, but I just remember thinking
[7] something should happen.
[8] Q: You said in your complaint, your written complaint to
[9] Mr. Bolze: I am afraid of repercussions stemming from
[10] my complaint. That's paragraph 3 here on page 1.
[11] Why did you say that?
[12] A: Well, because he was my boss, and I mean, when Ken
[13] left, I mean, he could — he was next in line to be
[14] chief. He could get rid of me.
[15] Q: You mentioned that there were references to punishing
[16] people in the office. Would you describe for us what
[17] you understood punishment to be?
[18] A: My understanding was that you would get more cases or
[19] the cases with, like, a lot of victims in it, just
[20] cases that had more work involved.
[21] Q: Did people say in the office: There will be punishment
[22] as a result of this?
[23] A: They would joke about, oh, I must be getting punished,
[24] I got this many cases, that sort of thing.
[25] Q: And were there statements by individuals indicating

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[1] that punishment might be meted out?
[2] A: Might be what?
[3] Q: Meted out?
[4] A: I don't recall.
[5] Q: Do you remember having your conversation with the EEOC
[6] investigator in which you said that GG was a vindictive
[7] type of person who used phrases such as punish for
[8] those who were disloyal, Joe had the same attitude?
[9] A: I don't recall specifically saying that but I know I've
[10] said it today. I'm sure I did say it. I don't know
[11] how long ago the interview was. I believed that.
[12] Q: Why do you believe that?
[13] A: All I can tell you is just based on working with them
[14] for a number of years.
[15] Q: I'm looking again at the notes from your interview back
[16] in March of 2000 with the EEOC. These notes say you
[17] firmly believe that all this with BV is a result of GG
[18] not getting his way with her. He is that type of
[19] person.
[20] Do you believe you told that to the EEOC
[21] investigator?
[22] A: Yes.
[23] Q: Why?
[24] A: For whatever reason, Barb wasn't doing what Gary
[25] wanted, and he turned against her.

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[1] Q: Did you have any evidence at all that there was an
[2] intimate relationship between Barbara Varner and Gary
[3] Graham?
[4] A: No.
[5] Q: You said you were surprised when you heard that that
[6] was the confession that Mr. Graham had made. Why were
[7] you surprised?
[8] A: I mean, I had shared an office with Barb and I've
[9] worked there for years and know that that kind of stuff
[10] is talked about, and I just — I'm thinking if that
[11] were true, Barb certainly wouldn't have wanted it to
[12] come out. She wouldn't have — I mean, there would
[13] have been no point in her filing a Complaint or she
[14] would have revealed it beforehand.
[15] Q: Do you believe that Barb Varner had an intimate
[16] relationship with Gary Graham?
[17] A: No.
[18] Q: Why not?
[19] A: I just know Barb. And I like I said, I don't believe
[20] Gary — that it would have been a secret to everybody
[21] if Gary were involved.
[22] Q: Now, you told the EEOC investigator, according to these
[23] notes, and what I'm really asking you, Ms. Houser, is
[24] are these notes accurate? Gary Graham goes around
[25] saying that Barbara Varner is lying and that he's

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[1] coming back to Probation which scares Barbara Varner.
[2] Do you remember saying that?
[3] A: He's never said that to me but I've heard that he's
[4] said that.
[5] Q: And did someone tell you that he said that?
[6] A: I heard it from, I think Denny Drachbar.
[7] Q: Do you think Barbara Varner was scared in or around
[8] March of 2000 of Gary Graham?
[9] A: Sure. I'm sure she still is.
[10] Q: Do you think her fear is justified or unjustified?
[11] A: I would say justified.
[12] Q: Why?
[13] A: Just based on Gary's — I mean, he can be mean.
[14] Q: Can you give me any examples of how he has been mean?
[15] A: I heard him yell at District Justice Correal at one
[16] time, I mean, just ranting and raving at her.
[17] I heard him one time go off on a probation officer
[18] because he parked in Gary's spot for an hour when Gary
[19] was signed out for the day, and Gary said he owed him
[20] 15 cents or something. I mean, just weird stuff.
[21] Q: Have you heard Mr. Graham make any threats about John
[22] Ward?
[23] A: He on the phone to me has said stuff about — we had
[24] one conversation where I don't know why but John Ward's
[25] name was brought up.

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[1] Q: What do you recall about that conversation?
[2] A: We were talking about work, a work-related thing, and
[3] that's all Gary and I have talked about in years, and
[4] he was talking about something with medical benefits
[5] and married people. And it didn't affect me. And he
[6] said something about John Ward's going to get his for
[7] doing that to married benefits.
[8] And he said something about Rick Ravino, that he
[9] called the commissioners and/or was going to call the
[10] commissioners to tell them that if Rick Ravino wants to
[11] mingle with prostitutes, because there was something in
[12] the paper about Rick Ravino, they could switch jobs.
[13] And he said something, he was upset that certain
[14] county employees were given extra vacation. I forget
[15] what their title is. But Gary being at the prison
[16] wasn't eligible for that benefit now and he was upset
[17] about that.
[18] Q: Back to what we've marked as Deposition No. 1, I'd ask
[19] you to look at page 2 of that document. Right before
[20] your closing of "your prompt attention to this matter
[21] is greatly appreciated," would you look at that
[22] paragraph, please, and tell me why you wrote that?
[23] A: Tell you why I wrote that paragraph?
[24] Q: Yes.
[25] A: Just because I just wanted to reiterate that foul

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[1] language is used in our office. Just police reports —
[2] I mean, it wasn't that I get offended by words. It was
[3] the way in which it was used.
[4] Q: While you were there, and let's say from 1988 through
[5] the time of the split in 1996, how many female
[6] probation officers were there?
[7] A: When I first started there were three: Me and two
[8] others. And then I think at one point there might have
[9] been four. I forget if, when Julie Staver — I think
[10] there was definitely four. At one point there was
[11] four.
[12] And then when Barb and Debra came, I think that
[13] might have been five. I think that they replaced one
[14] of the female probation officers with a male at one
[15] point.
[16] Now there's a lot of them.
[17] Q: Do you know whether the women in the office talked
[18] about the atmosphere for probation officers who were
[19] female?
[20] A: No. The only thing I can recall quickly is the time
[21] that a Juvenile position, a female position was getting
[22] replaced by a male. That was all.
[23] Q: And what was the talk at that time?
[24] A: We were just upset about it.
[25] Q: Why was that?

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[1] A: Because it was Betsy Baker and I who would have been
[2] left, the other two females. We thought our caseload
[3] would be higher. And also, the person who was getting
[4] hired had been an intern and had done favors for Joe
[5] and we knew that's why he was getting hired.
[6] Q: What kind of favors?
[7] A: I don't recall specifically. I know there was one
[8] intern who loaded firewood for him.
[9] I forget what Dirk had to do.
[10] Q: Would you say that during the period of time prior to
[11] the split that Mr. Osenkarski was a hands-on manager?
[12] A: No.
[13] Q: How would you describe his supervisory style?
[14] A: If you needed something, you went and asked him. That
[15] was — oh, and our cases, like, if we did a PSI or
[16] juvenile summary, he would review that and put it back
[17] on your desk.
[18] Q: What's PSI?
[19] A: Presentence investigation. For juveniles we don't, it
[20] was called a summary, I think.
[21] Q: Did he spend a lot of time in the office?
[22] A: No.
[23] Q: Where was he?
[24] A: I don't know.
[25] Q: Was he there on a daily basis?

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[1] A: I would say most days he was there at some point.
[2] Q: Did he work eight hours in the office?
[3] A: I don't think often.
[4] Q: Did he ever explain why he was out of the office
[5] frequently?
[6] A: Not to me. I mean, I worked for him.
[7] Q: Were there any jokes around the office about where Joe
[8] Osenkarski was during the day?
[9] A: I don't recall. I don't remember. It was just one of
[10] those assumed things that he wasn't there.
[11] Q: When he wasn't there, who was in charge?
[12] A: Of the Juvenile side would have been Gary.
[13] Q: Was it frequent that Gary Graham was left in charge?
[14] A: Sometimes.
[15] Q: Do you know whether Mr. Osenkarski used office supplies
[16] for personal use?
[17] A: I don't know — I mean, I don't — I never saw him take
[18] any. I heard. I was in his car once going to a
[19] training and he joked about having Grateful Dead music
[20] on an office cassette. But that's the only thing I
[21] ever saw.
[22] Q: Did you see the cassette?
[23] A: Yes.
[24] Q: Did you believe it came from the office?
[25] A: It was like the Lanier ones that at the time we used